

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION—JACKSON

CAPITOL BODY SHOP, INC., *et al.*

PLAINTIFFS

v.

Civil Action No. 3:14-cv-00012-CWR-FKB

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, *et al.*

DEFENDANTS

**DEFENDANTS NATIONWIDE PROPERTY AND CASUALTY INSURANCE
COMPANY AND NATIONWIDE MUTUAL INSURANCE COMPANY’S
MOTION TO DISMISS PLAINTIFFS’ FIRST AMENDED COMPLAINT**

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendants Nationwide Property And Casualty Insurance Company and Nationwide Mutual Insurance Company (collectively “Nationwide”) move to dismiss Plaintiffs’ First Amended Complaint for failure to state a claim upon which relief can be granted, as shown in the memorandum of law filed in support of this Motion.

Nationwide further requests, pursuant to Fed. R. Civ. P. 1 and 15(a)(2), that leave to amend the First Amended Complaint as to Nationwide be denied as futile. As demonstrated in Nationwide’s supporting memorandum, none of the conduct alleged in the First Amended Complaint can support any cause of action against Nationwide under federal or state law.

Accordingly, Nationwide respectfully requests that the Court dismiss Plaintiffs’ First Amended Complaint as to Nationwide, in its entirety and with prejudice, enter final judgment in this action in Nationwide’s favor, and order such additional relief as the Court finds appropriate.

Dated: June 26, 2014

Respectfully submitted,

NATIONWIDE PROPERTY AND
CASUALTY INSURANCE COMPANY
and NATIONWIDE MUTUAL
INSURANCE COMPANY

By Their Attorneys,
DANIEL COKER HORTON & BELL

s/ Jackson H. Ables

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CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2014, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to the following: John Arthur Eaves, Jr.; Allison P. Fry; Halbert E. Dockins, Jr., Ellie F. Turnage.

s/ Jackson H. Ables